

Application No.: 09/870,865
Amendment Dated: July 27, 2005
Reply to Office Action Dated: April 27, 2005

REMARKS/ARGUMENTS

In the aforementioned Office Action, the Examiner graciously noted that original claims 14-20 were misnumbered and that she had renumbered them as claims 12-18, respectfully, in connection with her examination on the merits. The instant listing of claims adopts the Examiner's renumbering scheme.

Claims 1-3 and 6-9 stand rejected under 35 U.S.C § 112, second paragraph. Claims 1-9 have been canceled by the present Amendment thereby rendering moot the outstanding Section 112 rejection of claims 1-3 and 6-9.

Claims 15 and 18 stand rejected under 35 U.S.C § 112, second paragraph. In particular, the Examiner objected to certain phraseology that the interpreted as not being positively recited method claim language. Responsive thereto, claims 15 and 18 have been amended in the manner suggested by the Examiner to present positively recited method steps. Withdrawal of the outstanding Section 112 rejection of claims 15 and 18 is respectfully requested.

Claims 1-18 stand rejected under 35 U.S.C. § 102 (a and e) as being anticipated by Dirksen et al. (U.S. Patent No. 6,853,975, "Dirksen"). Such rejection is respectfully traversed.

Initially, in respect to canceled claims 1-9, this rejection has been rendered moot.

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As for claims 10-18, independent claim 10 has been amended herein to set forth a novel and unobvious method for conducting an employee performance review program that is neither disclosed, suggested nor rendered obvious by the prior art. Indeed, claim 10 includes at least one feature that clearly separates the presently claimed invention from all of the prior art cited by Applicants and the Examiner, including Dirksen.

The Examiner will recall that a unique aspect of the present invention is that it permits persons (reviewers) who desire to review the job performance of other persons (reviewees) to do so without obligation to do so. That is, persons who have not been chosen or nominated by a reviewee to review the reviewee may nonetheless do so if they so desire. See, for example, Applicants' specification at page 3, first complete paragraph, page 4, second complete paragraph, page 5, second paragraph, the brief description of FIG. 14 on page 7, page 11, second complete paragraph, page 22, first complete paragraph, paragraph "c" bridging pages 23 and 24, page 27, third paragraph, page 29, third paragraph, and the Abstract. This capability is expressly set forth in amended claim 10 wherein it is stated: "selecting, by a user of the system, a person whose employment performance the user desires to review but has not been nominated to review." A substantial advantage afforded by this feature is that it permits individuals who may have substantial knowledge of a person's employment performance, e.g., colleagues from within and outside of a person's employment department, from providing input that may be useful

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in evaluating that person. Dirksen is utterly silent as to this unique functionality.

Dirksen enables reviewees to select their reviewers but does not permit reviewers to select their reviewees. In this respect Dirksen is no different than the commercially available 360° Feedback® and the Visual 360® so-called "360°" employee review systems discussed at length in the "Background of the Invention" section of Applicants' specification.

Accordingly, since Dirksen does not and cannot perform the novel method for conducting an employee performance review program defined in amended independent claim 10, it is respectfully requested that the outstanding Section 102 (a and e) rejection of that claim and its dependent claims 11-18 be withdrawn.

The prior art cited of interest has been considered but is not believed to be any more relevant to the claimed invention than the Dirksen patent discussed above.


In view of the foregoing, the instant application is believed to be in condition for allowance and, therefore, early issuance thereof is earnestly solicited.

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If the Examiner believes that a telephone interview would be beneficial to advance prosecution of the present application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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